IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

C-24 06 OF 2006

Smt. Arti Singh,
W/o Shri Anil Kumar Chauhan,
D/o Shri M.S. Parmar,
R/o through Ashish Provision Store,
Pilibhit Bye Pass Road, Bareilly,
District-Bareilly (U.P.) .....Petitioner.

Versus

Anil Kumar Chauhan, S/o Shri Ved Prakash Chauhan, C/o Academy of Management Studies, Prem Nagar, Police Station Cantt., Dehradun, District-Dehradun. .....Respondents.

Dated: 15.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Manish Arora, Advocate for the petitioner and Sri Nagesh Agarwal, Advocate for the respondent.

By the present transfer application, the petitioner has prayed for the transfer Original Suit No. 441 of 2004 Anil Chauhan Vs. Smt. Arti Singh under Section 9 of Hindu Marriage Act pending in the Court of Family Court, Dehradun to the Family Court, Rudrapur.

Briefly stated, the parties were married on 12th November, 2003. The respondent Sri Anil Kumar Chauhan has filed a Suit being Suit No. 441 of 2004 Anil Chauhan Vs. Smt. Arti Singh under Section 9 of Hindu Marriage Act in the Family Court Dehradun on 02.12.2004. An application has also been filed by the application being Misc. Suit No. 119 of

2005 Smt. Arti Singh Vs. Anil Chauhan U/s 24 of the Hindu Marriage Act for the interim maintenance of her son.

The grievance of the petitioner is that she is residing at Bareilly in her father's house and the suit having been filed at Dehradun, which is too far and it is not possible for her to visit on every date at Dehradun. She is also having a son of 11 months, who is living with her.

It has also been pointed out that other cases filed under Section 406, 498-A and 125 of the Code of Civil Procedure are also pending at Bareilly.

A counter affidavit has been filed by the respondents where he has prayed that the petitioner is at liberty to move the transfer application at Bareilly itself.

From the facts on the record, it is evident that the applicant is residing at Bareilly, whereas the respondent is residing at Dehradun. Some of the proceedings are pending at Bareilly and some at Dehradun. Petitioner has submitted that since the applicant is of 26 years' age and there is a child of 11 months along with her and it is not possible for her to come to Dehradun to attend the case, being a resident of Bareilly.

In the interest of justice, it will be convenient for both the parties if the entire proceedings are transferred near Bareilly within the State of Uttaranchal i.e. Rudrapur.

In the case of ***Soma Choudhary Vs. Gourab Choudhary (2006) 1 SCC (Cri) 341,*** the Division Bench has observed as under:-

"4. Having regard to the grounds on which the transfer petition is filed that the petitioner has no source of income, has already initiated proceedings under Section 125 CrPC, which the respondent is contesting and also taking note of the fact that the petitioner is a young lady, it is difficult for her to travel to attend the court proceedings at Tripura, it is

just and appropriate to allow the petition. If the respondent has any threat to his life, he can take police help by making an appropriate application to the police station concerned."

However, it is made clear that since the proceedings U/s 9 as well as Section 24 of the Hindu Marriage Act are being transferred at Rudrapur, it is desirable that the petitioner shall also take steps to get all the pending proceedings transferred at Rudrapur so that entire matter may be decided together within the District of Rudrapur. The Presiding Officer shall decide all the proceedings expeditiously within a period of six months from the date of production of the certified copy of the order.

Accordingly transfer application is allowed. No order as to costs.

(Rajesh Tandon, J.)

15.05.2006

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